



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

Thomas S. Burack, Commissioner



**Env-Wq 1106.02: Public Swimming Pools - Materials and Methods of Construction**  
**Summary of Comments on Initial Proposal with DES Responses**  
**August 31, 2015**

**Introduction**

Env-Wq 1100 establishes requirements for public bathing facilities. Env-Wq 1106.02 establishes the required materials and methods of construction for public pools. The existing rule requires the pool bottom to “have a light-colored finish.” Due to the number of questions that have arisen about whether certain materials qualify as “light-colored”, the Department proposed to revise the rule to be more specific. The proposed revisions are based on section 4.5.11, Color and Finish, of the Model Aquatic Health Code, 1st Edition, August 2014 (MAHC), promulgated by the Centers for Disease Control and Prevention (CDC). Revisions also were proposed to clarify what characteristics the materials used for pool walls and bottoms must have (rather than limiting the materials to those specifically listed), to accommodate the potential for new materials to be developed or adapted for use in public pools.

The public hearing was held July 24, 2015; the deadline for public comment was August 7, 2015. The Department received comments on the Initial Proposal (IP) from only a few interested individuals. These comments and the Department’s responses are summarized below in numerical order. The comment received from the Office of Legislative Services, Administrative Rules indicated that no basis for objection was identified and no edits were needed.

**All comments refer to Env-Wq 1106.02**

**Section heading, (a) intro**

Comment: *The section heading does not identify what kinds of public bathing facilities it applies to. Also, paragraph (a) says the requirements apply to “swimming pools”, but this section is incorporated by cross-reference to apply to special recreation pools (Env-Wq 1109.02) and therapy pools (Env-Wq 1110.02).*

Response: The Department has added “for Pools” to the section heading in the proposed final rule for clarity. The Department also has deleted the word “swimming” from Env-Wq 1106.02 so that the requirements apply to “pools” and so more clearly accommodate the cross-references.

**(a)(3) re: liners**

Comment: *Subparagraph (a)(3) allows plastic liners to be used “in conjunction with any of the materials listed in (1)” -- but (1) has been revised to list required characteristics in place of specific materials.*

Response: The Department has restructured paragraph (a) in the proposed final rule to delete the introductory language and convert the subparagraphs into stand-alone paragraphs, and has revised the language regarding liners accordingly.

**(a)(4) re: asphalt, etc.**

Comment: *Asphalt does not meet the specifications now stated for allowable materials, so why do you need to say that it is not allowed?*

Response: The language was a remnant of an old rule. The Department has deleted it from the proposed final rule.